

® AO 120 (Rev. 2/99)

<p>TO: Mail Stop 8 Director of the U.S. Patent & Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450</p>	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court, Northern District of California, on the following X Patents or Trademarks:

DOCKET NO. CV 11-05587 LB	DATE FILED 11/17/2011	U.S. DISTRICT COURT Northern District of California, 1301 Clay St., Rm 400S, Oakland, CA 94612
PLAINTIFF APPLE INC	DEFENDANT GRAPHICS PROPERTIES HOLDINGS INC	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,450,327		SEE ATTACHED
2 7,518,415		
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In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		SEE ATTACHED
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In the above-entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Richard W. Wiegling	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA

LB

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

5587

15 APPLE INC., a California corporation,

Case No.

16 Plaintiff,

COMPLAINT FOR DECLARATORY
JUDGMENT OF NON-
INFRINGEMENT AND INVALIDITY
OF PATENTS

17 v.

DEMAND FOR JURY TRIAL

18 GRAPHICS PROPERTIES HOLDINGS,
19 INC., a Delaware corporation,

20 Defendant.

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2 Plaintiff Apple Inc. ("Apple") alleges against Defendant Graphics Properties Holdings,
3 Inc. ("GPH") as follows:

4 **NATURE OF THE ACTION**

5 1. This is an action for declaratory judgment of non-infringement and invalidity of
6 two United States patents pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202,
7 and the patent laws of the United States, 35 U.S.C. § 100 *et seq.*

8 2. Apple seeks a judicial declaration that Apple's products do not infringe United
9 States Patent Nos. 6,650,327 ("the '327 Patent") (Exhibit A) and 7,518,615 ("the '615 Patent")
10 (Exhibit B) (collectively, "the Patents-in-Suit") and that the Patents-in-Suit are invalid.

11 3. GPH asserted the Patents-in-Suit against Apple in a case before the United States
12 District Court for the Southern District of New York. GPH dismissed the New York case against
13 Apple without prejudice. On information and belief, GPH also asserted the Patents-in-Suit
14 against Apple in a Complaint recently filed with the United States International Trade
15 Commission ("USITC"). GPH also dismissed that Complaint without prejudice shortly after its
16 filing. Thus, an actual, substantial, and continuing justiciable controversy exists between GPH
17 and Apple that requires a declaration of rights by this Court.

18 **THE PARTIES**

19 4. Plaintiff Apple is a California corporation with its principal place of business at
20 1 Infinite Loop, Cupertino, California 95014.

21 5. On information and belief, Defendant GPH is a Delaware corporation with its
22 principal place of business at 56 Harrison Street, Suite 305C, New Rochelle, New York 10801.

23 **JURISDICTION AND VENUE**

24 6. Apple brings this action under the Declaratory Judgment Act, 28 U.S.C. §§ 2201-
25 2202, for a declaratory judgment of non-infringement and invalidity of the Patents-in-Suit under
26 the Patent Laws of the United States, 35 U.S.C. §§ 101 *et seq.* This Court has subject matter
27 jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337, and 1338.

28 7. This Court has personal jurisdiction over GPH by virtue of GPH's purposeful,
repeated, and constitutionally sufficient contacts with California to make personal jurisdiction

proper in this Court. On June 4, 2009, Silicon Graphics, Inc. changed its name to Graphics Properties Holdings, Inc. Exhibit C at p. 3. According to its public filings with the United States Securities and Exchange Commission ("SEC"), at that time GPH maintained an office in the Northern District of California at 1140 East Arques Ave., Sunnyvale, California 94085. *Id.* at p. 1. GPH continues to use this address in its business registration with the California Secretary of State. Exhibit D. In addition, according to public filings with the SEC dated November 9, 2009 and January 19, 2010, GPH maintained an office in the Northern District of California at 525 University Ave., Suite 220, Palo Alto, California 94301. Exhibit E at p. 4; Exhibit F at p. 1. On information and belief, GPH has also negotiated and entered into licenses under the Patents-in-Suit with other entities in the Northern District of California. On information and belief, GPH derives the benefit of these licenses, including benefits arising out of activities in California.

8. Venue in this district is established under 28 U.S.C. §§ 1391(b) and (c).

BACKGROUND

9. On information and belief, the Patents-in-Suit were issued by the United States Patent and Trademark Office and are assigned to GPH.

10. The Patents-in-Suit arise from the same parent application and are both entitled "Display System Having Floating Point Rasterization and Floating Point Framebuffering."

11. On November 16, 2010, GPH filed a Complaint for Patent Infringement in the United States Direct Court for the Southern District of New York naming Apple as a Defendant (the "New York Action"). *See Exhibit G.* In the New York Action, styled *Graphics Properties Holdings, Inc. v. Nintendo Co., Ltd., et al.* (Case No. 1:10-cv-8655-WHP), GPH accused Apple's products of infringing the Patents-in-Suit. *Id.* at ¶¶ 14, 16, 26-27, 36-37.

12. On July 13, 2011, GPH stipulated to dismissing the New York Action against Apple without prejudice. *See Exhibit H.*

13. On or about November 16, 2011, GPH filed a complaint with the USITC pursuant to Section 337 of the Tariff Act of 1930, as amended regarding *Certain Consumer Electronics and Display Devices* (Docket No. 2857) (the "ITC Action"). *See Exhibit I.* GPH's complaint in the ITC Action named Apple as a Respondent. *See id.* On information and belief, GPH filed the

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2 complaint to request that the ITC commence an investigation regarding Apple's alleged
3 infringement of the Patents-in-Suit.

4 14. On or about November 16, 2011, GPH withdrew its complaint in the ITC Action
5 without prejudice. *See Exhibit J.*

6 15. Based on GPH's repeated assertions of patent infringement by Apple, an actual,
7 substantial, and continuing justiciable controversy exists between GPH and Apple that requires a
8 declaration of rights by this Court.

9 16. As stated above, GPH alleged in the New York Action that Apple infringes the
10 Patents-in-Suit through the manufacture and distribution of certain products. Also as stated
11 above, on information and belief, GPH filed the ITC Complaint and is presently alleging that
12 Apple infringes the Patents-in-Suit through the importation and sale of certain products.

13 17. Therefore, at the present time, an actual controversy exists between Apple, on the
14 one hand, and GPH, on the other, as to Apple's alleged infringement of the Patents-in-Suit and
15 the invalidity of those patents. This controversy is of such immediacy and reality as to warrant
16 declaratory relief so that the parties may ascertain their rights and duties with respect to the
17 Patents-in-Suit.

18 **COUNT ONE**

19 **Declaratory Judgment of Non-Infringement of the Patents-in-Suit**

20 18. Apple realleges and incorporates herein by reference the allegations in paragraphs
21 1 through 17 above.

22 19. GPH has alleged and continues to allege that Apple and its products infringe the
23 Patents-in-Suit.

24 20. Apple has not infringed and is not now infringing directly or indirectly, and has
25 not induced or contributed to and is not now inducing or contributing to the infringement of, any
26 claim of the Patents-in-Suit, either literally or by application of the doctrine of equivalents.

27 21. Apple seeks a declaratory judgment from this Court under Rule 57 of the Federal
28 Rules of Civil Procedure and 28 U.S.C. §§ 2201-2202 declaring that Apple is not infringing and
has not infringed the Patents-in-Suit and granting Apple all other declaratory relief to which it

may be entitled.

COUNT TWO

Declaratory Judgment of Invalidity of the Patents-in-Suit

22. Apple realleges and incorporates herein by reference the allegations in paragraphs 1 through 21 above.

23. The claims of the Patents-in-Suit are invalid because they fail to comply with one or more requirements of the Patent Laws of the United States, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, 112 and/or 116.

24. Apple seeks a declaratory judgment from this Court under Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201-2202 declaring that the Patents-in-Suit are invalid and granting Apple all other declaratory relief to which it may be entitled.

PRAYER FOR RELIEF

WHEREFORE, Apple prays for judgment and relief as follows:

1. That Apple has not infringed, contributed to the infringement of, nor induced infringement of any claim of the Patents-in-Suit.

2. That the Patents-in-Suit are invalid;

3. That this case is exceptional under 35 U.S.C. § 285.

4. For reasonable attorneys' fees pursuant to 35 U.S.C. § 285;

5. For further necessary or proper relief pursuant to 28 U.S.C. §§ 2201-2202; and

6. For such other relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL.

Apple hereby demands a jury trial in this action.

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2 Dated: November 17, 2011

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4 Respectfully submitted,
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